

have not been rewritten in this response pending the Examiner's review of the amendments to independent Claims 1 and 18 from which they depend.

Turning then to the rejections set forth in the Action of August 17, 2000, it is noted that Claims 1-5, 8-9, 10-12, 18 and 20 were rejected under 35 U.S.C. 103 as being unpatentable over Udall U.S. Patent 4,515,294 in view of Coopridier U.S. Patent 3,987,938.

The Examiner's position, as stated in the Office Action, is that Udall essentially shows all of the structure of the claims in question with two exceptions. Coopridier is cited as showing a hemispheric, transparent flexible member 16 and an outlet and inlet disposed at 90 degrees to each other.

First, Applicant questions the combination.

Udall discloses a conventional tube-type dispensing pump for soap or similar materials in which the elongate collapsible flexible tube serves as the "pump." Similar tube arrangements can also be seen in several of the prior art patents cited by Applicant. The Udall tube is attached to a flexible bag or to a reservoir so that when an actuating member, such as the plunger 43, is depressed against the tube, material contained in the tube is forced out through the valve associated with the nozzle 97. Release of the plunger 43 permits the tube to expand back to its normal condition and creates a vacuum which unseats the valve means 91 drawing more material into the tube from the reservoir. There is absolutely no suggestion whatsoever in Udall that there would be any utility whatsoever in providing a hemispherically-shaped, flexible transparent member as a replacement for the tube 84 of Udall. It would be pointless to make this combination because the tube is located out of sight within the dispenser itself. Similarly, it would be pointless to

dispose the inlet to the tube, which is generally shown in Udall by the ball check valve 85, at right angles to the valve 86 associated with outlet nozzle 97. This would require bending the tube at right angles which would render it futile to depress plunger 45. Again, there would be no utility in doing this or modifying Udall in that fashion and furthermore, it is questionable whether the Udall device could function in that mode.

Furthermore, the Cooprider dispensing pump relies on the flexible diaphragm itself to perform a valving function. The only flexible member in Udall is the elongate tube 84 and that certainly does not function as a valve. Accordingly, Applicant's position is that the proposed combination is neither suggested by either reference or feasible.

Assuming however, that the combination could be made, it is pointed out that Claim 1, as amended, defines the first connector as being attached to and projecting from the base of the pump for attachment to the source of fluid. In the Office Action, the "base" is referred to as the item 11 and/or the back plate 10. These are, in fact, the numerals which could be used to designate the back plate or back wall of the *dispenser* and not the pump. The base referred to in Applicant's device is, of course, the *pump* base. That being the case, of course, the structure defined by the Examiner in the action as meeting the terms of Claim 1, for example, is not analogous structure. There is, in fact, no true "base" component of the pump of Udall which is, in fact, the flexible tube itself.

With regard to the proposed combination of Cooprider and Udall, it is apparent that the "pump base" of Udall would apparently be construed to be the pump housing 10. This pump housing is not attached through a first connector to

the source of the fluid. If the dip tube 25 of Cooprider is equated with a first connector that connector does not have any valves and does not perform any valving function. Therefore, even if the combination were made, clearly the structure recited in Claims 1 through 5, 8-9, 10-12, 18 and 20 are not shown. Therefore, it is believed that the claims as amended clearly define patentable subject matter over the proposed combination.

The Examiner has suggested that the pressure member could be made transparent (Claim 12) and could be configured as a hemisphere (Claim 10) and could have a "flattened area" at its apex (Claim 11). There is, however, no art cited by the Examiner to support this statement. The art cited by the Examiner certainly does not show or suggest such a configuration for the flexible pressure member.

With regard to Claim 20, attention is called to the fact that this claim is drawn to a combination of a dispenser, a source of fluid, and a pump. With regard to the portions of Claim 20 relating to the pump component, certainly the arguments made above are equally applicable. As to the relationship between the pump and the dispenser and the source of fluid, none of the prior art, be it Udall, Cooprider or Cassia U.S. Patent 4,886,192, show such structure. It is also noted that the pump of Claim 20 is defined as being transparent and flexible and also as being defined accessible through the cover of the dispenser. Clearly, Udall does not contemplate this. Udall's tube is received within the dispenser and is actuated by an external plunger. Similarly, Cassia's flexible member, which would be the tube 40, is disposed within the dispenser and is actuated by the lever 55. It is not clear from the disclosure of Cooprider where the flexible member 16 is disposed relative to

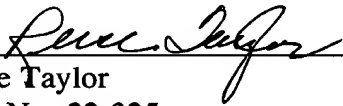
any source of fluid, but in any event, the foregoing arguments with regard to distinguishing Applicant's pump over the pump shown in Coopriider are appropriate here.

With regard to newly added Claim 23, this claim is similar to allowed Claims 19 and 21 but merely defines the retaining means slightly differently. Therefore, Claim 23 is also considered to define over the art of record.

Accordingly then, having already noted the allowance of Claims 19, 21 and 22 and the allowability of Claims 6, 7, 13, 14, 15, and 17, Applicant requests reconsideration with a view toward allowance of Claims 1-3, 5, 8-9, 10-12, 18 and 20 in view of the claim amendments made herein and arguments presented above.

Should the Examiner feel that a telephone interview would assist in prosecution of this case, such an interview is earnestly solicited.

Respectfully submitted,

  
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CERTIFICATE UNDER 37 C.F.R. 1.8(a)

I hereby certify that the foregoing Amendment submitted herewith for Jeffrey T. Maddox, et al., United States Application Serial No. 09/397,314, filed September 16, 1999, for Compact Fluid Pump, is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Box ~~Non~~-Fee Amendment, Assistant Commissioner for Patents, Washington, D.C. 20231, this 13<sup>th</sup> day of December, 2000.

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